



## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 843

#### RIN 3206-AO13

### **Federal Employees' Retirement System; Present Value Conversion Factors for Spouses of Deceased Separated Employees**

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing a proposed rule to revise the table of reduction factors for early commencing dates of survivor annuities for spouses of separated employees who die before the date on which they would be eligible for unreduced deferred annuities, and to revise the annuity factor for spouses of deceased employees who die in service when those spouses elect to receive the basic employee death benefit in 36 installments under the Federal Employees' Retirement System (FERS) Act of 1986. These rules are necessary to ensure that the tables conform to the economic and demographic assumptions adopted by the Board of Actuaries and published in the **Federal Register** on March 29, 2021, as required by law.

**DATES:** Send comments on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at

<http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Karla Yeakle, (202) 606-0299.

**SUPPLEMENTARY INFORMATION:** On March 29, 2021, OPM published a notice at 86 FR 16401 in the **Federal Register** to revise the normal cost percentages under the Federal Employees' Retirement System (FERS) Act of 1986, Public Law 99-335, 100 Stat. 514, as amended, based on economic assumptions and demographic factors adopted by the Board of Actuaries of the Civil Service Retirement System. By statute under 5 U.S.C. 8461(i), the revisions to the actuarial assumptions require corresponding changes in factors used to produce actuarially equivalent benefits when required by the FERS Act.

Section 843.309 of title 5, Code of Federal Regulations, regulates the payment of the basic employee death benefit. Under 5 U.S.C. 8442(b), the basic employee death benefit may be paid to a surviving spouse as a lump sum or as an equivalent benefit in 36 installments. These rules amend 5 CFR 843.309(b)(2) to conform the factor used to convert the lump sum to 36-installment payments with the revised economic assumptions.

Section 843.311 of title 5, Code of Federal Regulations, regulates the benefits for the survivors of separated employees under 5 U.S.C. 8442(c). This section provides a choice of benefits for eligible current and former spouses. If the current or former spouse is the person entitled to the unexpended balance under the order of precedence under 5 U.S.C. 8424, he or she may elect to receive the unexpended balance instead of an annuity. If the separated employee died before having attained the minimum retirement age, the annuity commences on the day the deceased separated employee would have been eligible for an unreduced annuity as specified under this section. If the current or former spouse instead elects to receive an adjusted annuity beginning on the day after the death of the separated employee, the annuity is reduced using the factors in appendix A to subpart C of part 843 to make the annuity actuarially equivalent to the present value of the annuity that the spouse or former

spouse otherwise would have received. These rules amend appendix A to subpart C of part 843 to conform the factors to the revised actuarial assumptions.

### **Regulatory Impact Analysis**

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of \$100 million or more in any one year. This rule was not designated as a “significant regulatory action,” under Executive Order 12866.

### **Regulatory Flexibility Act**

The Office of Personnel Management certifies that this rule will not have a significant economic impact on a substantial number of small entities.

### **Federalism**

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

### **Civil Justice Reform**

This regulation meets the applicable standard set forth in Executive Order 12988.

### **Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

### **Congressional Review Act**

The Congressional Review Act (5 U.S.C. 801 et seq.) requires rules (as defined in 5 U.S.C. 804) to be submitted to Congress before taking effect. OPM will submit to Congress and the Comptroller General of the United States a report regarding the issuance of this action before its effective date, as required by 5 U.S.C. 801. OMB's Office of Information and Regulatory Affairs has determined that this is not a "major rule" as defined by the Congressional Review Act (5 U.S.C. 804(2)).

### **Paperwork Reduction Act**

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule involves an OMB approved collection of information subject to the PRA Application for Death Benefits (FERS)/Documentation and Elections in Support of Application for Death Benefits when Deceased was an Employee at the Time of Death (FERS), 3206-0172. The public reporting burden for this collection is estimated to average 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total burden hour estimate for this form is 16,751 hours. The systems of record notice for this collection is: OPM SORN CENTRAL-1-Civil Service Retirement and Insurance Records.

### **List of Subjects in 5 CFR Part 843**

Air traffic controllers, Disability benefits, Firefighters, Government employees, Law enforcement officers, Pensions, Retirement.

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Regulatory Affairs Analyst.

For the reasons stated in the preamble, the Office of Personnel Management proposes to amend 5 CFR part 843 as follows:

**PART 843—FEDERAL EMPLOYEES RETIREMENT SYSTEM—DEATH BENEFITS AND EMPLOYEE REFUNDS**

1. The authority citation for part 843 continues to read as follows:

**Authority:** 5 U.S.C. 8461; 843.205, 843.208, and 843.209 also issued under 5 U.S.C. 8424; 843.309 also issued under 5 U.S.C. 8442; 843.406 also issued under 5 U.S.C. 8441.

**Subpart C—Current and Former Spouse Benefits**

2. In §843.309, revise paragraph (b)(2) to read as follows:

§ 843.309 Basic employee death benefit.

\* \* \* \* \*

(b) \* \* \*

(2) For deaths occurring on or after October 1, 2021, 36 equal monthly installments of 2.94259 percent of the amount of the basic employee death benefit.

\* \* \* \* \*

3. Revise appendix A to subpart C of part 843 to read as follows:

**Appendix A to Subpart C of Part 843—Present Value Conversion Factors for Earlier Commencing Date of Annuities of Current and Former Spouses of Deceased Separated Employees**

With at least 10 but less than 20 years of creditable service—

Age of separated employee at birthday before death	Multiplier
26.....	.1096
27.....	.1162
28.....	.1232
29.....	.1305
30.....	.1382
31.....	.1464
32.....	.1550
33.....	.1643
34.....	.1742
35.....	.1845
36.....	.1958
37.....	.2074
38.....	.2198
39.....	.2327
40.....	.2459
41.....	.2609
42.....	.2770
43.....	.2936
44.....	.3119
45.....	.3308
46.....	.3518
47.....	.3735
48.....	.3969
49.....	.4220

50.....	.4490
51.....	.4781
52.....	.5094
53.....	.5430
54.....	.5792
55.....	.6178
56.....	.6601
57.....	.7059
58.....	.7555
59.....	.8092
60.....	.8674
61.....	.9308

With at least 20, but less than 30 years of creditable service—

Age of separated employee at birthday before death	Multiplier
36.....	.2254
37.....	.2389
38.....	.2532
39.....	.2682
40.....	.2836
41.....	.3010
42.....	.3195
43.....	.3388
44.....	.3599
45.....	.3818
46.....	.4059

47.....	.4311
48.....	.4581
49.....	.4871
50.....	.5182
51.....	.5518
52.....	.5878
53.....	.6265
54.....	.6682
55.....	.7128
56.....	.7615
57.....	.8142
58.....	.8712
59.....	.9329

With at least 30 years of creditable service—

Age of separated employee at birthday before death	Multiplier by separated employee's year of birth	
	After 1966	From 1950 through 1966
46 .....	.4988	.5332
47 .....	.5298	.5664
48 .....	.5631	.6019
49 .....	.5987	.6401
50 .....	.6370	.6810
51 .....	.6781	.7249



52 .....	.7224	.7722
53 .....	.7698	.8229
54 .....	.8209	.8775
55 .....	.8759	.9363
56 .....	.9355	1.0000

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